

Message Text

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TO AMEMBASSY SINGAPORE IMMEDIATE

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E.O. 11652: GDS

TAGS: EFIN

SUBJECT: SECTION 911 AND 912

REF: SINGAPORE 841

1. FOLLOWING IS STATE COMMENT TO OMB ON SECTION 911.

WE HAVE BEEN ASKED TO COMMENT ON PROPOSED TREASURY
TESTIMONY (FOR DELIVERY BEFORE THE HOUSE WAYS AND MEANS
COMMITTEE ON FEBRUARY 23 AND 24) ON BEHALF OF THE
ADMINISTRATION RECOMMENDING CHANGES IN THE TAX
TREATMENT OF PRIVATE AMERICAN CITIZENS AND US GOVERNMENT
EMPLOYEES WORKING ABROAD. BECAUSE OF THE EXTREME IMPACT
THE TREASURY PROPOSAL TO INCREASE THE TAXATION OF
GOVERNMENT EMPLOYEES SERVING OVERSEAS WOULD HAVE ON
STATE DEPARTMENT OPERATIONS, WE ARE SENDING YOU A
SEPARATE LETTER STATING OUR STRONG OPPOSITION TO THAT
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PROPOSAL. BELOW ARE OUR COMMENTS ON THE PORTION OF THE
PROPOSED TREASURY TESTIMONY WHICH DEALS WITH THE TAX
TREATMENT OF PRIVATE AMERICAN CITIZENS WORKING ABROAD.

CHANGES TO SECTION 911

AMENDMENTS MADE IN 1976 TO SECTION 911 OF THE INTERNAL

REVENUE CODE SIGNIFICANTLY INCREASED THE TAX LIABILITY
OF US CITIZENS WORKING OVERSEAS. WE HAVE RECEIVED
NUMEROUS REPORTS FROM OUR EMBASSIES AND DIRECTLY FROM

US FIRMS THAT MANY AMERICANS WILL HAVE TO GIVE UP THEIR OVERSEAS JOBS BECAUSE OF THE TAX INCREASE. THE LOSS OF AMERICAN JOBS OVERSEAS WILL HAVE AN ADVERSE IMPACT ON UNEMPLOYMENT IN THE UNITED STATES, WILL CUT OUR SERVICE INCOME FROM ABROAD, AND WILL HURT OUR EXPORTS.

THE CHANGES TO SECTION 911 PROPOSED BY TREASURY WILL ANSWER THE COMPLAINTS OF BUSINESSMEN ABROAD THAT THEY ARE BEING TAXED ON ALLOWANCES WHICH DO NOT INCREASE THEIR REAL INCOME. THESE BUSINESSMEN WILL BE ABLE TO DEDUCT FROM THEIR TAXABLE INCOME MOST OF THE EXTRAORDINARY EXPENSES OF WORKING IN FOREIGN COUNTRIES. THIS SYSTEM WILL MAKE AMERICAN WORKERS MORE COMPETITIVE INTERNATIONALLY AND WILL HELP AMERICAN COMPANIES MAINTAIN AND EXPAND THEIR FOREIGN MARKETS. THE STATE DEPARTMENT FULLY SUPPORTS THE PROPOSED CHANGES AND RECOMMENDS THAT THEY BE SUBMITTED TO CONGRESS FOR EARLY ENACTMENT INTO LAW.

CHANGES TO SECTION 119

MANY AMERICAN CITIZENS WORKING OVERSEAS ARE REQUIRED LIMITED OFFICIAL USE
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TO LIVE IN THE TYPE OF CAMPS WHICH WOULD NORMALLY QUALIFY FOR THE SECTION 119 EXCLUSION, BUT BECAUSE THESE CAMPS ARE NOT ON THE BUSINESS PREMISE OF THE EMPLOYER, A MORE DIFFICULT CONDITION OVERSEAS THAN IN THE UNITED STATES, SECTION 119 DOES NOT APPLY. THIS MEANS US WORKERS LIVING IN THESE CAMPS OVERSEAS MUST ADD THE COST OF THIS LODGING, WHICH IS OFTEN HIGH BECAUSE OF THE ADVERSE CONDITIONS, TO THEIR TAXABLE INCOME. THIS INCREASES THE COST OF EMPLOYING US WORKERS TO THE POINT WHERE MANY OF THEM CAN NO LONGER BE PROFITABLY EMPLOYED. THE TREASURY PROPOSAL WOULD REMOVE THIS BARRIER TO THE OVERSEAS EMPLOYMENT OF US CITIZENS. THE STATE DEPARTMENT SUPPORTS THE PROPOSAL.

CHANGES TO SECTION 217

EXPENSES INCURRED IN MOVING BETWEEN THE UNITED STATES AND A FOREIGN COUNTRY OR BETWEEN FOREIGN COUNTRIES OFTEN EXCEED THE COST OF MOVING BETWEEN RESIDENCES WITHIN THE UNITED STATES. IN ADDITION, THE DIFFICULTY OF FINDING A PERMANENT RESIDENCE IN FOREIGN COUNTRIES OFTEN REQUIRED THE US TAXPAYER TO LIVE IN TEMPORARY QUARTERS LONGER THAN IS REQUIRED IN THE UNITED STATES.

THE TREASURY PROPOSAL RECOGNIZES THESE ADDED EXPENSES BY INCREASING THE DOLLAR AND TIME LIMITS ON THE DEDUCTIBILITY OF MOVING EXPENSES. THE STATE DEPARTMENT

FULLY SUPPORTS THE PROPOSAL.

2. FOLLOWING IS STATE COMMENT ON SECTION 912.

THANK YOU FOR THE OPPORTUNITY TO COMMENT ON THE PROPOSED
TREASURY TESTIMONY RECOMMENDING CHANGES IN THE TAX
TREATMENT OF PRIVATE AMERICAN CITIZENS AND US GOVERNMENT
EMPLOYEES WORKING ABROAD. DOUG BENNET IS FORWARDING
DEPARTMENT COMMENTS ON THE PROPOSALS ON SECTION 911,
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BUT THE TAX TREATMENT OF US GOVERNMENT EMPLOYEES OVERSEAS
IS SO VITAL THAT I WANTED TO WRITE YOU PERSONALLY ABOUT
MY CONCERNS ON THE TREASURY PROPOSALS. OUR COMMENTS
ON THOSE PROPOSALS, KEYED TO THE SECTIONS OF THE PAPER
YOU CIRCULATED FOR COMMENT, ARE ENCLOSED. ALSO
ENCLOSED ARE SPECIFIC EXAMPLES OF THE EFFECTS THESE
PROPOSALS WOULD HAVE ON INDIVIDUAL EMPLOYEES AT VARIOUS
SALARY LEVELS.

WE ARE MOST TROUBLED BY THE PROPOSAL THAT WOULD, FOR THE
FIRST TIME, TAX THE HOUSING BENEFIT PAID TO US
GOVERNMENT EMPLOYEES OVERSEAS. THIS WOULD BE DONE BY
LIMITING THE EXCLUSION FOR HOUSING ALLOWANCES UNDER
SECTION 912 TO THE EXCESS OF THE HOUSING ALLOWANCE
RECEIVED OVER 20 PERCENT OF THE GROSS INCOME OF THE
EMPLOYEE. BECAUSE SOME EMPLOYEES WILL BE ABLE TO CLAIM
EXCLUSION OF THE HOUSING BENEFIT UNDER OTHER PROVISIONS
OF THE TAX CODE, THIS PROPOSAL WOULD BE EXTREMELY
DIFFICULT TO ADMINISTER AND WOULD BE PERCEIVED AS
INEQUITABLE. IN THE SHORT RUN IT WOULD CAUSE CONFUSION
AND DIFFICULTY FOR ALL AGENCIES IN RECRUITING AND
ASSIGNING PERSONNEL OVERSEAS. IN THE LONG RUN, I
BELIEVE THAT THE PRESSURE TO CORRECT INEQUITIES WOULD
RESULT IN MODIFICATION OF THE HOUSING ALLOWANCE,
INVOLVING SUBSTANTIAL BUDGET IMPACT.

TREASURY IS SENSITIVE TO THIS PROBLEM, BUT, AS WE
UNDERSTAND THEIR POSITION, THEY FEEL IT WOULD BE
PREFERABLE TO TAX THE HOUSING BENEFIT AND MAKE WHATEVER
INCREASES IN PAY AND ALLOWANCES ARE NECESSARY SO THAT
THE COMPENSATION STRUCTURE OF US GOVERNMENT EMPLOYEES
OVERSEAS IS NOT AFFECTED. THIS WOULD HAVE THE ADVANTAGE
THAT THE FULL COST OF THE HOUSING BENEFIT WOULD BE
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EXPLICITLY STATED IN THE FEDERAL BUDGET. FROM A
PRACTICAL STANDPOINT, HOWEVER, THIS APPROACH IS NOT

REALISTIC AND WOULD INVOLVE US IN THORNY PROBLEMS.
SALARY SCALES FOR US GOVERNMENT EMPLOYEES OVERSEAS

CANNOT BE INCREASED. REVISING THE ALLOWANCES STRUCTURE
WOULD INVOLVE THE DEPARTMENT AND OMB IN ROUND ROBIN
NEGOTIATIONS WITH SOME TWENTY AGENCIES, COMPLICATED BY
THE NEED TO FACTOR IN THE VIEWS OF A NUMBER OF
CONGRESSIONAL COMMITTEES AND ENSURE A FAIR HEARING FOR
THE AFFECTED EMPLOYEES AND THEIR UNIONS. THE PROCESS
WOULD PLACE USURIOUS DEMANDS ON THE TIME OF ALL OF OUR
PEOPLE INVOLVED, AND THE OUTCOME COULD VERY WELL BE LESS
SATISFACTORY AND COSTLIER TO THE GOVERNMENT THAN THE
PRESENT SYSTEM.

IN DEALING WITH ISSUES OF COMPENSATION AND TAXATION OF
AMERICANS OVERSEAS, WE MUST TAKE INTO ACCOUNT THE FACT
THAT GOVERNMENT SYSTEMS OF EMPLOYMENT AND COMPENSATION
ARE FAR LESS FLEXIBLE THAN THOSE OF THE PRIVATE SECTOR.
FOR EXAMPLE, PRIVATE EMPLOYERS CAN AND DO COMPENSATE
THEIR EMPLOYEES FOR ANY INCREASE IN TAX LIABILITY DUE
TO OVERSEAS SERVICE; THERE WOULD BE SERIOUS PROBLEMS
WERE THE GOVERNMENT TO ATTEMPT THIS. THE PRIVATE
EMPLOYER CAN SUBSTITUTE FOREIGN NATIONALS FOR AMERICAN
EMPLOYEES WITH MUCH GREATER FLEXIBILITY THAN THE
GOVERNMENT. THESE FACTORS RESTRICT THE GOVERNMENT'S
ABILITY TO SELECT PERSONNEL FOR SERVICE OVERSEAS AND
DETERMINE HOW THEY WILL BE COMPENSATED AND REIMBURSED
FOR THE ADDED EXPENSE OF SERVING AT A FOREIGN POST.

THE IMPACT OF MODIFICATION OF SECTION 912 WOULD BE MOST
SEVERELY FELT BY THE LOWER SALARIED EMPLOYEES WHICH
MAKE UP MOST OF THE US GOVERNMENT CIVILIAN WORKFORCE
OVERSEAS. OF THE 37,600 EMPLOYEES SERVING ABROAD,
THREE-FOURTHS OF THESE EARN LESS THAN 20,000 DOLLARS
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PER YEAR AND HALF MAKE LESS THAN 13,000 DOLLARS. NEARLY
ONE FIFTH OF THE WORKFORCE IS AT THE GS 1-4 LEVEL.
THESE EMPLOYEES ARE ALREADY CAUGHT IN THE DOUBLE
PROBLEM OF OVERSEAS INFLATION AND THE REDUCED PURCHASING
POWER OF THE DOLLAR. THE ADDITIONAL FINANCIAL BURDEN
OF INCREASED TAXATION DUE TO CHANGES IN SECTION 912
WOULD RESULT IN INCREASED DIFFICULTIES IN ATTRACTING
THE CALIBER OF EMPLOYEES THE GOVERNMENT MUST ATTRACT
IF WE ARE TO CARRY OUT EFFECTIVELY THE OBJECTIVES
AND PROGRAMS OF THE UNITED STATES ABROAD.

THE PROBLEMS IN THE TREASURY PROPOSALS STEM FROM LINKING
SECTION 911 AND 912. HOWEVER ATTRACTIVE THIS MIGHT BE
IN PRINCIPLE, THERE ARE REAL PRACTICAL DIFFICULTIES
BECAUSE OF THE DIFFERENCES BETWEEN THE GOVERNMENT

AS AN EMPLOYER AND THE PRIVATE SECTOR AND BETWEEN THE
RESPECTIVE WORKFORCES. OUR PRESENTATIONS TO THE HOUSE

DIFFERENCES CLEAR.

I RECOMMEND IN THE STRONGEST TERMS THAT WE DELETE ANY
REFERENCE TO SECTION 912 FROM TREASURY TESTIMONY, AND
OFFER THE HOUSE WAYS AND MEANS COMMITTEE THE EXPERTISE
OF THE INTER-AGENCY COMMITTEE ON OVERSEAS ALLOWANCES
AND BENEFITS IN HANDLING QUESTIONS THAT MIGHT ARISE
WITH RESPECT TO SECTION 912. THE INTER-AGENCY
COMMITTEE, ON WHICH TWENTY AGENCIES ARE REPRESENTED,
HAS COMPLETED AN EXHAUSTIVE STUDY OF THE COMPLEX
SYSTEM OF ALLOWANCES AND BENEFITS AVAILABLE TO US
GOVERNMENT EMPLOYEES OVERSEAS. THEY HAVE A UNIQUE
EXPERTISE IN THIS AREA, AND THEY CAN ADDRESS NOT ONLY
THE ISSUES OF TAXATION BUT THE MANAGEMENT PROBLEMS
FACED BY THE US GOVERNMENT AS AN EMPLOYER OVERSEAS.
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EFFECTIVE AND RESPONSIBLE MANAGEMENT OF THE COMPLEX
OVERSEAS BENEFITS AND ALLOWANCES PROGRAM IS OF CRITICAL
IMPORTANCE NOT ONLY TO STATE, BUT ALL OF THE AGENCIES
OVERSEAS. WE TAKE REAL PRIDE IN THE IMPROVEMENTS IN
THAT PROGRAM BEING MADE BY THE INTER-AGENCY COMMITTEE,
WORKING CLOSELY WITH YOUR PEOPLE AT OMB AND THE GENERAL
ACCOUNTING OFFICE. IT IS VITAL THAT WE NOT ALLOW THE
TIME CONSTRAINTS ASSOCIATED WITH THE UPCOMING HEARINGS
PUSH US INTO ACTIONS THAT WOULD DAMAGE OUR ABILITY TO
MANAGE THE US GOVERNMENT PRESENCE OVERSEAS AND ULTIMATELY
RESULT IN HIGHER COSTS.

WHILE I UNDERSTAND THAT TIME PRESSURES HAVE NOT
PERMITTED THE STUDY AND CONSULTATION BETWEEN DEPARTMENTS
THAT WOULD HAVE BEEN DESIRABLE ON ISSUES SO COMPLEX,
I STRONGLY URGE THAT NO POSITION BE TAKEN WITH THE
CONGRESS UNTIL WE HAVE WORKED OUT THESE ISSUES WITHIN
THE EXECUTIVE BRANCH AND ALLOWED THE PRESIDENT TO DECIDE
ON THOSE ISSUES WE CANNOT OTHERWISE RESOLVE.

3. REGARDING 911 PRESIDENT DECIDED TODAY TO EXCLUDE
15,000 DOLLARS OPTION AND ALLOW HOME LEAVE DEDUCTION
FOR EVERY OTHER YEAR RATHER THAN EVERY YEAR.

4. HEARINGS BEFORE HOUSE WAYS AND MEANS COMMITTEE
WENT WELL WITH MOST CONGRESSMEN COMMENTING THAT THEY
ARE HAPPY TO SEE A SIMPLIFIED YET FAIR LAW.

5. REGARDING FULBRIGHT SCHOLARS WE HAVE AN ORAL
AGREEMENT WITH TREASURY THAT THEY WILL ADD A
PROVISION TREATING ALL FULBRIGHT INCOME AS FOREIGN

SOURCE.

6. CALCULATION OF INCOME WILL INCLUDE SALARY AND
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ALLOWANCES MINUS HOUSING, HOME LEAVE AND EDUCATION
ALLOWANCES AND TRAVEL TO AND FROM PLACE OF WORK.

7. ADMINISTRATION RECOMMENDED NO CHANGES IN 912.

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Message Attributes

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Copy: SINGLE
Draft Date: 23 feb 1978
Decaption Date: 01 jan 1960
Decaption Note:
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Disposition Approved on Date:
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